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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,853	06/29/2001	Manfred Weuthen	C 2213 US	9048

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PATENT DEPARTMENT
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EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/896,853
Filing Date: June 29, 2001
Appellant(s): WEUTHEN ET AL.

Steven Trzaska
For Appellant

EXAMINER'S ANSWER

MAILED
JUL 06 2004
GROUP 1700

This is in response to the appeal brief filed April 22, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 11-23 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

US 4,898,621	Pruehs et al	February 6, 1990
DE 19738866 A1	Schmid et al	March 11, 1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

A) Claims 11-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Pruehs et al, U.S. Patent No. 4,898,621.

Pruehs et al, U.S. Patent No. 4,898,621, discloses a hydroxyalkyl polyethylene glycol ether corresponding to the general formula I, per the requirements of instant claims 11-12 and 17-18 (see col. 2, lines 14-27). It is further taught by Pruehs et al that the hydroxyalkyl polyethylene glycol ether corresponding to the general formula I can be combined with a small quantity of other nonionic surfactants, per the requirements of instant claims 15 and 21 (see col. 5, lines 1-19). Specifically, note Table 1, Example III, which discloses a hydroxyalkyl polyethylene glycol ether, wherein R¹ is n-tetradecyl, R²

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is n-butyl, R^3 is hydrogen, and n is 9, per the requirements of the instant claims.

Furthermore, see Example XIV, which discloses a detergent composition made by adding 15% of the compound of Example III with 10% by weight of a C_{12-14} fatty alcohol with 5 moles of ethylene oxide and 4 moles of propylene oxide, 4% by weight of sodium cumene sulfonate, 10% by weight of citric acid, 5% by weight of SOKALAN DCS and 56% by weight of water, per the requirements of instant claims 11-22. Therefore, instant claims 11-22 are anticipated by Pruehs et al, U.S. Patent No. 4,898,621.

B) Claims 11-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmid et al, DE 19738866.

Schmid et al, DE 19738866, discloses a detergent composition comprising 0.5-20% by weight of a hydroxy mixed ether of Formula (I), 0.5-20% by weight of nonionic surfactants, 0-40% by weight of a solvent, 0.1-50% by weight of a carboxylic acid, 1-20% by weight of an alkylbenzenesulfonic acid, and water to balance (see abstract and page 2, line 51-page 3, line 26), per the requirements of the instant invention. It is further taught by Schmid et al that the variable R^2 includes a hydrogen atom, that the variable X includes zero, and that the variable Z includes one (see Formula (I) on page 2, lines 54-63 of Schmid et al, DE 19738866), per the requirements of instant claims 12 and 18. Schmid et al further teaches that the detergent composition is used in a process for cleaning laundry (see attached abstract), per the requirements of instant claim 23. Specifically, note the Examples in Tables 1-3. Therefore, instant claims 11-23 are anticipated by Schmid et al, DE 19738866.

(11) Response to Argument

Appellant argues that Pruehs et al, U.S. Patent No. 4,898,621, and Schmid et al, DE 19738866, fail to disclose the addition of a hydroxy mixed ether to an aqueous laundry detergent. However, the examiner respectfully asserts that the recitation of "laundry detergent" occurs in the preamble, and thus is not accorded any patentable weight, since it does not breathe life and meaning into the claim. See *MPEP 2111.02*.

Appellant further argues that Pruehs et al and Schmid et al fail to disclose the addition of the hydroxy mixed ether to an aqueous laundry detergent. However, the examiner respectfully asserts that Pruehs et al and Schmid et al clearly teach the addition of a hydroxy mixed ether to an aqueous composition, per the requirements of the instant claims.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Brian P. Mruk

Brian P Mruk

Primary Examiner

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Brian P. Mruk

July 1, 2004

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